

**Final Order Denying Refund Number: 01-20181598R
Individual Income Tax
For Tax Year 2017**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

HOLDING

Individuals were not entitled to an additional refund of income tax because they failed to demonstrate that the Department improperly adjusted their individual income tax return.

ISSUE

I. Individual Income Tax - Refund.

Authority: IC § 6-8.1-9-1; IC § 6-8.1-9-2; *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); [45 IAC 15-9-2](#).

Taxpayers protest the partial denial of a claim for refund of individual income tax for tax year 2017.

STATEMENT OF FACTS

Taxpayers are a married couple residing in Indiana. Taxpayers file their individual income tax return jointly. In 2018, Taxpayers timely filed their individual income tax return for tax year 2017 ("Tax Period at Issue") with the Indiana Department of Revenue ("Department"). Upon review, the Department made adjustments to Taxpayers' 2017 return based upon information received from the Internal Revenue Service ("IRS"), including W-2 information, which increased Taxpayers' taxable income. The increase in taxable income also reduced the amount of refund Taxpayers were entitled to receive from the Department.

Taxpayers protested the partial refund denial. Taxpayers waived their right to an administrative hearing and requested the "settlement" protest resolution track. However, Taxpayers did not provide a settlement proposal with their protest filing. Taxpayers were provided additional time to provide further explanation of the basis of their protest as well as documentation in support thereof, but failed to provide any additional documentation or explanation or respond to the Department's communications. This Final Order Denying Refund results. Further facts will be provided as necessary.

I. Individual Income Tax - Refund.

DISCUSSION

The Department reviewed and partially denied Taxpayers' refund claim, as filed in their 2017 individual income tax return. When asked for further explanation of the documentation provided in order to substantiate the basis of their protest, Taxpayers stated that they would provide supplemental documentation from their tax preparer, but failed to do so.

IC § 6-8.1-9-1(a) affords a taxpayer a statutory right to file a claim for refund if the taxpayer determines that the taxpayer has paid more tax than the amount is legally due for a particular taxable period. To obtain the refund, the taxpayer is required to file the claim with the Department within three (3) years from the date of payment if that date is later than the due date of the return. "The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund." *Id.* See also [IC 6-8.1-9-2](#); [45 IAC 15-9-2](#). In this instance, Taxpayers timely filed their 2017 individual income tax return and requested a refund. Therefore, the issue is whether the Department properly adjusted Taxpayers' adjusted gross income resulting in a reduction of their refund for the Tax Year at Issue.

Taxpayers provided several documents with their protest, including W-2 and 1099-MISC forms and receipts, but provided no explanation of how these documents support their protest. Taxpayers also requested the settlement

resolution track, but did not provide a settlement proposal or a written rationale for the settlement, as required by the Department. Taxpayers were contacted twice and asked to provide additional explanation and/or documentation to support their argument that their 2017 income tax return was correct as filed. Although Taxpayers requested additional time to submit supporting documentation to explain and support their protest, they failed to do so as the Department finalizes this Decision. As a result, this Decision addresses Taxpayers' protest based on the documentation within the protest file.

In this instance, Taxpayers claimed that their 2017 individual income tax return was correct as filed and that they were entitled to the entire refund claimed on the return. Review of the documentation provided by Taxpayers shows that the amounts reported on Taxpayers' forms W-2 and 1099-MISC are significantly greater than what Taxpayers reported on their 2017 individual income tax return. Taxpayers have not demonstrated that the Department improperly adjusted Taxpayers' adjusted gross income based upon information from the IRS, nor that they were entitled to an additional refund.

The Department notes that Taxpayer has provided no documentation or explanation to suggest, let alone establish, that the Department made an error in the processing of their 2017 income tax return. Taxpayer has not presented a sufficiently developed or cogent argument for the Department to address, and has therefore been waived. See *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 485 n.9, (Ind. Tax Ct. 2012) (stating in a footnote parenthetical "*that poorly developed and non-cogent arguments are subject to waiver*" by the Indiana Tax Court) (citing *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax. Ct. 2010)) (*emphasis added*).

In short, given the totality of the circumstances, in the absence of other verifiable supporting documents and presentation of a cogent argument, Taxpayers were not entitled to any additional refund and their claim was properly denied.

FINDING

Taxpayers' protest is respectfully denied.

August 9, 2018

Posted: 10/31/2018 by Legislative Services Agency
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